REMARKS

Claims 1-10 are pending in the application.

Claims 1-10 stand rejected.

The claims have not been amended herein. Applicant requests reconsideration for at least the following reasons:

Claims 1-2 and 5-6 are rejected under 35 U.S.C. § 102(b) as anticipated by Esaki (U.S. 5,132,964). Claims 3-4 and 7-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Esaki.

Applicant's claim 1, for example, recites:

"controlling a *read start timing* of the held packet, according to a line bandwidth, a setting bandwidth that is a restricted bandwidth, and the packet length."

Thus the features in applicant's claim 1 describe that the read start time is controlled by the line bandwidth, the setting bandwidth, and the packet length.

Yang discloses in column 2, lines 21-25:

"the packet is assigned its own packet *virtual start time* based on....and the values of the virtual finish time of the previous packet in the session...."

This means that Yang's scheduler first sets the virtual start time.

Additionally, Yang discloses in column 2, lines 27-29:

"by determining the transfer time required for the packet based on its length and rate...."

Therefore Yang's scheduler determines the transfer time after setting the virtual start time, and then determine the virtual finish time.

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In other words, Yang's scheduler sets the virtual start time by providing a value for the virtual finish time of a previous packet. The value is not particularly disclosed in Yang but could be, for example a packet interval.

In contrast as pointed out above applicant's claimed invention recites:

"controlling a *read start timing* of the held packet, according to a line bandwidth, a setting bandwidth that is a restricted bandwidth, and the packet length."

Therefore, it is respectfully submitted Yang fails to disclose or suggest "the read start time controlled by the line bandwidth, the setting bandwidth, and the packet length" as claimed in claim 1.

It is further respectfully submitted Yang fails to disclose or suggest "the setting bandwidth" that is a factor for controlling the read start time of the present claimed invention.

Applicant's Specification paragraph [0004] describes, "a setting bandwidth" is a bandwidth such as a contract bandwidth which is secured for a packet transmission and set in an apparatus based on a contract detail such as a packet communication class.

Because Applicant's claims 1 and 5 include at least the features of controlling a read start timing of the held packet according to a line bandwidth, a setting bandwidth that is a restricted bandwidth, and the packet length, which is not disclosed in the reference, the rejections should be withdrawn.

Also again Esaki uses the term "packet length," meaning the quantity of data packets held in the buffer. This is different from applicant's claimed invention where the term "packet length" is used to describe the length of each variable length packet.
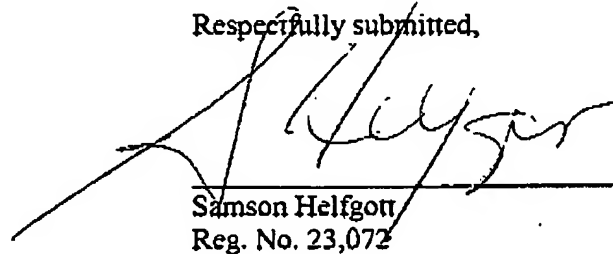
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Claims 2-4 are dependent upon claim 1 and should likewise be allowed for at least the above reasons. claims 6-9 are dependent upon claim 5 and should likewise be allowed for at least the above reasons.

Claim 10 is rejected under 35 U.S.C. § 103(a) as unpatentable over Esaki in view of Yamaguchi (U.S. 6,487,211). This rejection should likewise be withdrawn for at least the arguments presented with regard to claim 5.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

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